

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Darryl L. Cook,

Plaintiff,

v.

United States of America,

Defendant.

C/A No. 0:11-320-RMG-PJG

REPORT AND RECOMMENDATION

The plaintiff, Darryl L. Cook (“Cook”), a self-represented federal prisoner, filed this action pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680 (“FTCA”), against the defendant, the United States of America. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) DSC for a Report and Recommendation on Cook’s filing requesting injunctive relief. (ECF No. 64.)

Cook filed the instant motion against the “administration” at the Estill FCI Prison Camp, where he is currently housed. Because Cook seeks relief against a party who is not a defendant in this FTCA action, the court cannot grant the relief he seeks even if he were entitled to it. Moreover, Cook’s grievance cannot properly be presented in this FTCA action, as it apparently is grounded on an alleged constitutional violation that is not the subject of this case. If Cook wants to pursue a claim based on the allegedly unconstitutional opening of his mail, he must do so in a separate action.

Accordingly, the court recommends that the plaintiff’s motion (ECF No. 64) be denied.

September 27, 2012
Columbia, South Carolina


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

The parties’ attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).